IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

Bail Appl..No. 479 of 2007

CRIME NO.30/2007 OF VIZHINJAM POLICE STATION

PETITIONERS/ACCUSED 1-3

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1. BIJU, S/O.BHASI,
   BINDU NIVAS, PANANGODE,
   VENGANOOR, TRIVANDRUM.

2. SUNIL, MANAGING DIRECTOR,
   THAPOVAN HERITAGE HOME PRIVATE LIMITED,
   NELLIKUNNU, MULLOOR, TRIVANDRUM.

3. DILIP, GENERAL MANAGER,
   THAPOVAN HERITAGE HOME PRIVATE LIMITED,
   NELLIKUNNU, MULLOOR, TRIVANDRUM.

BY ADV. SRI.TOMY SEBASTIAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   THE SUB INSPECTOR OF POLICE,
   VIZHINJAM POLICE STATION.

2. THE SUB INSPECTOR OF POLICE,
   VIZHINJAM POLICE STATION, REPRESENTED
   BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

Bail Application No. 479/2007

Dated this 27th day of February, 2007

O R D E R

In this Petition filed under Sec. 438 Cr.P.C. the petitioners who are the accused 1 to 3 in Crime No.30/2007 of Vizhinjam Police Station for offences punishable under Sections 55(a) of the Abkar Act and 6(1)(A) of the Indian Wireless Telegraph Act, 1933, seek anticipatory bail.

2. The learned Public Prosecutor opposed the application.

3. The case of the prosecution is that the petitioners were found in possession of 50 bottles of Kingfisher beer, 58 cans of beer, 29.825 litres of foreign made foreign liquor, 3 bottles of wine and 10 wireless sets on 17.1.2007 at 7.00 p.m, in Thapovan Heritage Beech Resort Private Limited at Vizhinjam.

4. While according to the petitioners all the bottles of liquor belong to the foreign customers staying in the hotel and were entrusted with the hotel for the purpose of refrigeration, the case of the prosecution is that all these bottles were supplied by the hotel and intended for sale and that there is no necessity for the foreign customers to entrust the bottles to the

management of the hotel for refrigeration, since every room is provided with refrigerators.

5. Anticipatory bail cannot be granted in a case of this nature. But at the same time, I am inclined to permit the petitioners to surrender before the Investigating Officer for the purpose of interrogation and then to have their application for regular bail ordered by the Magistrate concerned.

6. Accordingly, the petitioners are directed to surrender before the Investigating Officer on any day between 5.3.2007 and 7.3.2007 for the purpose of interrogation and recovery of incriminating materials if any. The petitioners shall thereafter be produced on the same day before the Magistrate having jurisdiction, who shall consider and dispose of, on merit, the application if any, filed by the petitioners for regular bail preferably on the same day on which it is filed.

The application is disposed of as above.

V.RAMKUMAR,
JUDGE

mrcs